IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE FOURTH DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE B.PRAKASH RAO

WRIT PETITION NO : 5166 of 2003

Between:

T.Syam Prasad Rao, s/o. Satyanarayana,

Assistant Manager (under orders of removal),

Vijaya Bank, Regional Office, Vijayawada.

..... PETITIONER

AND

1) Vijaya Bank, rep. by its Chairman and Managing
Director, No.41/2, M.G.Road, Trinity Circle, Bangalore-560001.

2)The General Manager (Personnel), Vijaya Bank,
No.41/2, M.G.Road, Trinity Circle, Bangalore-560001.

3)The Deputy General Manager (Disciplinary Authority),
Vijaya Bank, No.41/2, M.G.Road, Trinity Circle, Bangalore-560001.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ, order or direction more particularly one in the nature of writ of mandamus a)declaring the orders No.PER/IRD/2901/02, dated 24.06.2002 of the third respondent No. PER/IRD/6324/02, dated 07.12.2002 of the second respondent and No.PER/IRD/641/03,dated 24.01.2003 of the first respondent as being arbitrary, illegal and opposed to the principles of natural justice apart from being violative of the rights guaranteed to the petitioner under Articles 14, 16, 21 of the Constitution of India; b)consequently, direct the respondents herein to reinstate the petitioner into service with effect from 24.06.2002 with all consequential benefits.

Counsel for the Petitioner: MR.HARENDER PRASAD

Counsel for the Respondents: Mr. E.Ajay Reddy & Mr. K.Srinivasa Murthy.

The Court made the following :

ORDER:

Heard Sri Harender Prasad, learned counsel appearing for the petitioner and Mr. E.Ajay Reddy & Mr. K.Srinivasa Murthy, learned counsel appearing for the respondents.

The only short question involved in this Writ Petition is as to whether the same officer, who is on promotion, can dispose of the appeal filed against the order of removal passed by himself earlier.

The facts leading to filing of this Writ Petition are that the petitioner had been working as Assistant Manager with the respondents-bank and having regard to certain allegations, he was removed from service as per order dated 24.06.2002 passed by the third respondent herein. Thereupon, the petitioner preferred appeal before the second respondent. Incidentally, in the meanwhile, the officer who has been holding the post of third respondent, was promoted and posted as second respondent, and the said appeal was taken up by himself and orders were passed by him dismissing the appeal, as per the orders dated 07.12.2002. The said order was also confirmed by the first respondent herein as per the order dated 24.01.2003 in the further appeal filed by the petitioner. Hence, the Writ Petition.

Having considered the submissions made by the learned counsel appearing on either and on perusal of the material, there is no dispute to the fact of removal of the petitioner from service by the third respondent and dismissal of the appeal filed by him by the second respondent. There is also no dispute to the fact that the same officer

who was holding the post of third respondent by the date of removal of the petitioner from service, was promoted as the second respondent and it is the same officer, who has passed both the orders viz. 24.06.2002 and 07.12.2002. It is too late in the day to say that one can sit over and pass orders. On the face of it, the entire impugned action on the part of the respondents 1 and 2 in confirming the initial orders dated 24.06.2002 is wholly vitiated and the same is liable to be set aside.

The Writ Petition is, accordingly, allowed setting aside the impugned order 07.12.2002 passed by the second respondent and consequently the order passed dated 24.01.2003 by the first respondent is set aside. The matter is remitted back to the second respondent for fresh disposal of the appeal in accordance with law after giving notice and opportunity to the petitioner. The entire exercise shall be completed within a period of two months from the date of receipt of copy of this order. No costs.

(B.Prakash Rao, J.)

04.03.2005

DRK

That Rule Nisi has been made absolute as above.

Witness the Hon'ble Sri Devinder Gupta, the Chief Justice on Friday the fourth day of March two thousand and five.

…Registrar

Copy to:

1) The Chairman and Managing Director, Vijaya Bank,
No.41/2, M.G.Road, Trinity Circle, Bangalore-560001.

2)The General Manager (Personnel), Vijaya Bank,
No.41/2, M.G.Road, Trinity Circle, Bangalore-560001.

3)The Deputy General Manager (Disciplinary Authority),
Vijaya Bank, No.41/2, M.G.Road, Trinity Circle, Bangalore-560001.

4)Two CD copies.